

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	Criminal No. 1:00-CR-00050
	:	
v.	:	(Judge Caldwell)
	:	
KENNETH O. SIMMONS, JR.	:	(Electronically Filed)
	:	

MOTION TO WITHDRAW AS COUNSEL IN PROCEEDINGS
RELATED TO CRACK COCAINE AMENDMENT

AND NOW, comes the Federal Public Defender's Office, and files this Motion to Withdraw as counsel, and in support thereof, avers as follows:

1. On February 22, 2008, Kenneth O. Simmons, Jr. filed a Pro Se Motion to Modify Term of Imprisonment pursuant to 18 U.S.C. § 3582(c)(2).
2. In this motion, Kenneth O. Simmons, Jr., asks for a sentence reduction based on the reduction of the crack cocaine guidelines.
3. On February 25, 2008, the Federal Public Defender's Office was appointed to represent Kenneth O. Simmons, Jr. for the purpose of addressing the crack cocaine amendment pursuant to 18 U.S.C. § 3582(c)(2).

4. On February 28, 2008, the Government filed a Response to Defendant's Motion to Modify Term of Imprisonment Pursuant to 18 U.S.C. § 3582(c)(2). In this Response, the Government notes Kenneth O. Simmons is serving a sentence of 360 months imprisonment.

5. The sentence imposed was based on a finding that Mr. Simmons was responsible for more than 40 kilograms of crack cocaine.

6. Unfortunately, the amendment to the guidelines does not change the sentence for Mr. Simmons because 40 kilograms still exceeds the top of the quantity chart.

7. Application of the amended guideline does not change his sentence.

8. On February 29, 2008, Chief Judge Kane issued a Standing Order with respect to appointment of counsel in proceedings related to the retroactive crack cocaine guideline amendments. In this Order, the Court states that counsel will be appointed where it appears that a defendant may be eligible for a sentence reduction.

9. Based on the above, the Federal Public Defenders Office moves this Court to withdraw as counsel in the proceedings related to the crack cocaine amendment pursuant to 18 U.S.C. § 3582(c)(2).

WHEREFORE, based on the above, the Federal Public Defenders Office respectfully requests that this Honorable Court grant the motion to withdraw as counsel in proceedings related to the crack cocaine amendment.

Respectfully submitted,

Date: April 1, 2008

/s/ Thomas A. Thornton, Esquire
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CERTIFICATE OF SERVICE

I, Thomas A. Thornton, of the Federal Public Defender's Office, do hereby certify that I served a copy of the foregoing **MOTION TO WITHDRAW AS COUNSEL IN PROCEEDINGS RELATED TO CRACK COCAINE AMENDMENT**, via Electronic Case Filing, or by placing a copy in the United States mail, first class in Harrisburg, Pennsylvania, addressed to the following:

MARTIN C. CARLSON, ESQUIRE

[REDACTED]
[REDACTED]
[REDACTED]

GORDON A.D. ZUBROD, ESQUIRE

[REDACTED]
[REDACTED]
[REDACTED]

DREW THOMPSON

[REDACTED]
[REDACTED]
[REDACTED]

KENNETH O. SIMMONS

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Date: April 1, 2008

/s/ Thomas A. Thornton, Esquire
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